IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

WP(C).No. 10446 of 2005(R)

PETITIONERS:

1. **ASAI KUMAR P.P., PUTHENKULANGARA HOUSE, KINGINIMATTOM P.O., KOLENCHERY VIA, ERNAKULAM.**
2. **KRISHNA KUMAR P., PARAKKATTHU HOUSE, KAPRASSERY, ERNAKULAM.**

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:

1. **THE COMMISSIONER, RURAL DEVELOPMENT DEPARTMENT, VIKAS BHAVAN, THIRUVANANTHAPURAM.**
2. **THE ASSISTANT DEVELOPMENT COMMISSIONER, CIVIL STATION, KAKKANAD, ERNAKULAM DISTRICT.**
3. **THE BLOCK DEVELOPMENT OFFICER, MUVATTUPUZHA.**
4. **THE BLOCK DEVELOPMENT OFFICER, KOTHAMANGALAM.**
5. **THE DISTRICT OFFICER, KERALA PUBLIC SERVICE COMMISSION, ERNAKULAM.**
6. **N.K.RAMACHANDRAN, VILLAGE EXTENSION OFFICER, KOOVAPPADY BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.**

7. SUNDARAM GOPAL, VILLAGE EXTENSION OFFICER, VAZHAKULAM BLOCK DEVELOPMENT OFFICE, ERNAKULAM.

8. K.A.JOY, VILLAGE EXTENSION OFFICER, VAZHAKULAM BLOCK DEVELOPMENT OFFICE, ERNAKULAM.

9. M.V.DEVASSY, VILLAGE EXTENSION OFFICER, ANKAMALY BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.

10. JOSE JOHN, VILLAGE EXTENSION OFFICER, MUVATTUPUZHA BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.

11. P.S.NARAYANAN, VILLAGE EXTENSION OFFICER, VADAVUCODE BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.

12. P.N.RAVI, VILLAGE EXTENSION OFFICER, PAMPAKUDA BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.

13. V.K.KRISHNANKUTTY, VILLAGE EXTENSION OFFICER, PAMPAKUDA BLOCK DEVELOPMENT OFFICE, ERNAKULAM DISTRICT.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
SRI.ALEXANDER JOSEPH --- R10
SRI.S.P.ARAVINDAKSHAN PILLAY FOR R6,R8,R9, R11, R12
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.PETER JOSE CHRISTO
SRI.A.JAYASANKAR -- R7
SRI.MANU GOVIND
SRI.PRATAP ABRAHAM VARGHESE
SRI.P.K.SUBRAMANIAN -- R13
GOVERNMENT PLEADER SRI. V.T.K.MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 10446/2005 R

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RANK LIST PUBLISHED BY R5.

EXT.P2. COPY OF THE ORDER GO P NO. 36/91/P&ARD DT. 2/12/91.

EXT.P3. COPY OF THE STATEMENT SHOWING THE SERVICE PARTICULARS DETAILING THE DATE OF APPOINTMENT AND DATE OF TRANSFER OF R6 TO 13.

RESPONDENT'S EXHIBITS

EXT.R6A. COPY OF THE RELEVANT EXTRACT OF THE ORDER NO. ESTT. B2/13527/ 2003/CRD DT. 26/5/03 OF THE DEVELOPMENT COMMISSIONER.

EXT.R6B. COPY OF THE ORDER NO. ESTT. B2/3872/2002/CRD DT.2/7/2003 OF THE ADDL. DEVELOPMENT COMMISSIONER-I.

EXT.R10A. COPY OF THE LETTER DT. 3/10/97 BY THE PRL. SECRETARY TO GOVT. GENERAL ADMN. DEPT.

True copy

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K. BALAKRISHNAN NAIR, J.

W.P.(C) No.10446 of 2005-R

JUDGMENT

The petitioners are persons included in Ext.P1 rank-list published by the P.S.C., for appointment to the post of Village Extension Officer Grade II in the scale of pay of Rs.950-1500, in the Community Development Department in Ernakulam district. According to them, in violation of Ext.P2(1) order and P2(3) circular, respondents 6 to 13 were transferred from other districts to Ernakulam district. As per Ext.P2(1) order, only 10% of the vacancies arising in a particular year alone can be filled up by inter-district transferees. In violation of the above condition, those persons were transferred and the chances of appointment of the petitioners were thereby affected, it is submitted. So, this writ petition was filed, seeking the following reliefs:

> "(i) Declare that the inter-district transfers given to respondents 6 to 13 to Ernakulam district are illegal and they are liable to go back to the district of their original appointment.
>
> (ii) Direct the Asst. Development Commissioner to report the vacancies occupied by

respondents 6 to 13 to the Public Service Commission forthwith.

(iii) Direct the respondents to revert respondents 6 to 13 to their parent district to work as VEO as the inter-district transfer given to them is illegal.

(iv) Direct the respondents not to permit any Village Extension Officers originally recruited in other districts to join in any offices in the District."

2. During the pendency of this writ petition, before the expiry of the rank-list, 8 vacancies of Village Extension Officer Grade II were reported to the P.S.C., as per the interim order of this Court dated 9.9.2005. This Court further directed that candidates need not be advised to those vacancies before the dispute regarding the vacancy position is finalised.

3. The 1st respondent has filed a counter affidavit, in which it is submitted as follows:

"11. It is submitted that the transfer as stated in Ext.P3 filed by the petitioners is purely on exigencies of service and without mala fide intention. As such it is not in violation of the provision in GO(P) 36/91/P&ARD dated 2.12.1991. The transfer said to have been allowed is not in the entry cadre Village Extension Officer Grade II, but in the post of Village

> Extension Officer Grade I, and transfer to that post is considered on State-wise seniority basis. 10% vacancy limitation provides for recruitment of Village Extension Officer Grade II only."

The party respondents have also filed counter affidavits, supporting the impugned transfer. The said respondents would submit that they have been transferred and appointed in the cadre of Village Extension Officer Grade I.

4. The petitioners have filed a reply affidavit, dealing with the averments in the counter affidavits. According to them, there is no sanctioned post of Village Extension Officer Grade I in Ernakulam district. The party respondents are presently occupying the post of Village Extension Officer Grade II only.

5. Heard the learned counsel on both sides. The post of Village Extension Officer Grade I is a post borne on the Kerala General Subordinate Service, coming under the Community Development Department. It is item (c) under category 3. The method of appointment to that post is by promotion from Village Extension Officers Grade II. If the party respondents were transferred and accommodated in the

sanctioned posts of Village Extension Officer Grade I, the same will in no way affect the vacancies available for direct recruitment to the post of Village Extension Officer Grade II. I find no reason to disbelieve the statement of the 1st respondent that the party respondents were accommodated in the vacancies of Village Extension Officer Grade I. Therefore, the transfer of the party respondents cannot be interfered with or the P.S.C cannot be directed to advice candidates to the vacancies reported pursuant to the interim order of this Court.

In the result, the writ petition fails and it is dismissed.

K. BALAKRISHNAN NAIR,
JUDGE.

30th July, 2007.
nm.